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Ben Manski

DISMISSAL AND CASE CLOSURE UNDER THE ENFORCEMENT PRIORITY SYSTEM

GENERAL COUNSEL'S REPORT

For the reasons set forth below, the Office of General Counsel recommends that the Commission dismiss the allegations that Jill Stein for President and James Moran, in his official capacity as treasurer, violated the Act or Commission regulations in MUR 6714, and recommends

² The EPS rating information is as follows: . Complaint Filed: January 8, 2013. Joint Response from Jill Stein for President and Ben Manski Filed: February 15, 2013. Resp. from James Moran Filed: March 31, 2013.

1 that the Commission find no reason to believe that Ben Manski violated the Act or Commission
2 regulations in MUR 6714.

3 The Complainant in this matter, Richard R. Zitola, alleges that while serving as an unpaid
4 volunteer for the 2012 campaign of Green Party presidential candidate Jill Stein he incurred
5 approximately \$6,000 in campaign-related expenses, which the Stein campaign has failed to
6 reimburse, in violation of the Act and Commission regulations. Compl. at 1. The Complaint was
7 filed against Stein's principal campaign committee, Jill Stein for President and James Moran in his
8 official capacity as treasurer (the "Committee") and Ben Manski, the Committee's campaign
9 manager.³ Specifically, Zitola alleges that between November 2011 and June 2012, he served in a
10 voluntary capacity as Stein's "scheduler," and was in "frequent, direct contact" with the candidate
11 and Ben Manski concerning Stein's travel itineraries. *Id.* Zitola alleges that Manski was "fully
12 aware" that he purchased plane and train tickets for Stein on behalf of the campaign, and that
13 Manski was also "fully aware" that he expected to be reimbursed. *Id.* Zitola states that he prepared
14 a full accounting of his expenses and mailed it to the campaign's national office after the July 2012
15 convention.⁴ *Id.* at 2. In the months following his submission of the bill for his expenses, Zitola
16 alleges that he frequently contacted Manski regarding reimbursement, but that Manski "repeatedly
17 put [him] off, saying he did not have time to review them." *Id.* Zitola notes that to date, there have
18 been no further communications from the Committee concerning the reimbursement. *Id.*

³ The Committee's initial Statement of Organization (FEC Form 1), filed November 14, 2011, named John D. Portelli as treasurer. Portelli was the named treasurer on the Committee's reports from that point through the 2012 September Monthly Report, filed September 20, 2012. On the Committee's 2012 October Monthly Report, filed October 22, 2012, the named treasurer was John W. Andrews. On the Committee's 2012 Pre-General Report, filed October 24, 2012, the named treasurer was James Moran. Moran has been listed as the Committee's treasurer on all subsequent reports filed with the Commission, and a Statement of Organization (FEC Form 1) naming Moran as treasurer was filed with the Commission on December 10, 2012.

⁴ Zitola alleges that he and Manski discussed his reimbursement for the travel expenses many times, but that Zitola's workload was such that he was unable to provide a complete compilation of all expenses until July 2012. Compl. at 1.

1 Attached to the Complaint is an apparent expense report from Zitola to the Committee, dated
2 July 12, 2012, itemizing \$5,649.41 in apparent travel-related costs incurred on Stein's behalf
3 between November 26, 2011, and May 3, 2012. *Id.* at Attach. Also included on the expense report
4 is \$296.01 in total charges for "Printing" and \$74.25 for "Supplies."⁵ *Id.* In addition, Zitola
5 attached copies of email communications between Manski and himself concerning Stein's travel
6 and tour itineraries, as well as copies of travel-related receipts. *Id.*

7 The Committee and Manski filed a joint response stating that Zitola was a "longtime
8 associate" of Stein who worked as a volunteer with Stein's 2012 presidential campaign "in a
9 number of different capacities," and for a time, was responsible for Stein's travel arrangements.
10 Joint Resp. at 1-2. The Committee maintains that Zitola was not a paid employee of the campaign,
11 and that in keeping with campaign directives, Manski instructed Zitola during various phone
12 conversations to "immediately" submit any expenses to the Committee for reimbursement. *Id.* at 2.
13 The Committee states that it was unaware of any expenses Zitola incurred on the Committee's
14 behalf until the campaign received a \$6,270 reimbursement request from Zitola several months after
15 the Committee terminated its relationship with him.⁶ *Id.* at 3. Attached to the Response are copies
16 of various email communications between Manski and Zitola from November 18, 2011 through
17 April 10, 2012, clarifying Zitola's campaign responsibilities and Stein's travel schedule. *Id.* at Ex.
18 A-Q. Also attached to the Response is a September 20, 2012, letter in which the Committee
19 informs Zitola "[b]ecause no expense report was filed between the months of November 2011 and
20 May 2012, Campaign management concluded that [Zitola] had not personally incurred any
21 reportable expenses" and, therefore, the Committee "cannot accept responsibility for the expenses."

⁵ The expense report also includes \$251.02 in food-related expenses; however, Complainant states these charges were inadvertently included and are not at issue. *Id.* at 2; Attach.

⁶ It appears that the Committee ended its relationship with Zitola in April 2012; after "experienc[ing] various difficulties with Mr. Zitola" the Committee "removed him from all volunteer roles in the campaign." Joint Resp. at 1, 3.

1 *Id.* at Ex. Y. Separately, James Moran responded that he has no prior knowledge of Zitola's claims,
2 since he was not the treasurer for the Committee during the period when the alleged expenses were
3 incurred. Moran Resp. at 1.

4 The Act and Commission regulations require political committees to continuously report the
5 amount and nature of outstanding debts until those debts are extinguished. 52 U.S.C. § 30104(b)(8)
6 (formerly 2 U.S.C. § 434(b)(8)); 11 C.F.R. §§ 104.3(d), 104.11(a)-(b). This reporting requirement
7 applies both to "disputed debts," *see* 11 C.F.R. § 116.10(a), and "estimated debts," *see* 11 C.F.R.
8 § 104.11(b). Debts or obligations of \$500 or less "shall be reported as of the time payment is made
9 or not later than 60 days after such obligation is incurred, whichever comes first." 11 C.F.R.
10 § 104.11(b). Debts or obligations over \$500 shall be disclosed "as of the date on which the debt or
11 obligation is incurred," with the exception of recurring administrative expenses such as salary or
12 rent, and if the exact amount is not known, the report shall state that the amount disclosed is an
13 estimate. *Id.* "Once the exact amount is determined, the political committee shall amend the
14 report(s) containing the estimate or indicate the correct amount on the report for the reporting period
15 in which such amount is determined." *Id.*

16 Where there is a "disputed debt," the political committee must report the disputed debt if the
17 creditor has provided "something of value" to the political committee. 11 C.F.R. § 116.10(a). A
18 "disputed debt" is "an actual or potential debt or obligation owed by a political committee,
19 including an obligation arising from a written contract, promise or agreement to make an
20 expenditure, where there is a bona fide disagreement between the creditor and the political
21 committee as to the existence or amount of the obligation owed by the political committee." 11
22 C.F.R. § 116.1(d). Until the dispute is resolved, the political committee must disclose any amounts
23 paid to the creditor, any amount the political committee admits it owes, and the amount the creditor
24 claims is owed. 11 C.F.R. § 116.10(a).

1 To date, the Committee has disclosed several debts incurred during the 2012 election cycle
2 on Schedule D of its Campaign Finance Reports filed with the Commission; however it has not
3 disclosed any debts, disputed or estimated, owed to Richard R. Zitola.⁷

4 The Committee is under an obligation to report both disputed and estimated debts and,
5 therefore, should have properly classified and reported any disputed or estimated debts claimed by
6 Zitola during the appropriate period. The debts underlying the claims made by Zitola in this matter
7 were not disclosed by the Committee at the time they were alleged to have incurred, nor when the
8 Complainant alleges to have submitted the claims to the Committee. Additionally, the Committee
9 has yet to disclose the debts on any subsequent financial disclosure reports. It appears that the
10 dispute between the Complainant and the Committee is still unresolved, and therefore the
11 Committee should have been disclosing any amounts already paid to Zitola, any amount the
12 Committee admits it owes, and the amount Zitola claims is owed. Due to the relatively low dollar
13 amount at issue, however, the Office of General Counsel does not believe that this matter warrants
14 the further use of Commission resources. Furthermore, because Ben Manski was the Committee's
15 campaign manager, and did not serve in an official capacity as treasurer of the Committee, he was
16 not responsible for any subsequent reporting of any disputed or estimated debts.

17 Therefore, in furtherance of the Commission's priorities, relative to other matters pending
18 on the Enforcement docket, the Office of General Counsel recommends that the Commission
19 exercise its prosecutorial discretion and dismiss this matter as to Jill Stein for President and James

⁷ See Jill Stein for President Amended 2012 April Quarterly Report at 68 (filed on June 20, 2014), Amended 2012 May Monthly Report at 49 (filed on June 20, 2014), Amended 2012 June Monthly Report at 60 (filed on June 20, 2014), Amended 2012 July Monthly Report at 74 (filed on June 20, 2014), Amended 2012 August Monthly Report at 128-129 (filed on June 20, 2014), Amended 2012 September Monthly Report at 157-159 (filed on June 20, 2014), Amended 2012 May Monthly Report at 49 (filed on June 20, 2014), Amended 2012 October Monthly Report at 177-180 (filed on June 20, 2014), Amended 2012 12-Day Pre-General Report at 99-101 (filed on June 20, 2014), Amended 2012 30-Day Post-General Report at 284-285 (filed on June 20, 2014), Amended 2012 Year-End Report at 30 (filed on June 20, 2014); additionally, the most recent report filed by the Committee does not disclose any debts, disputed or estimated, owed to Richard R. Zitola, see Jill Stein for President 2014 September Monthly Report at 16 (filed on September 21, 2014).

1 Moran in his official capacity as treasurer, pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985).
2 The Office of General Counsel also recommends that the Commission remind Jill Stein for
3 President and James Moran in his official capacity as treasurer that it must continuously report the
4 amount and nature of its outstanding debts until those debts are extinguished, pursuant to 52 U.S.C.
5 § 30104(b)(8) (formerly 2 U.S.C. § 434(b)(8)) and 11 C.F.R. §§ 104.3(d), 104.11, including both
6 “estimated debts,” *see* 11 C.F.R. § 104.11(b), and “disputed debts,” *see* 11 C.F.R. § 116.10(a), and
7 to amend its Reports of Receipts and Disbursements as appropriate. Additionally, this Office
8 recommends that the Commission find no reason to believe that Ben Manski violated the Act or
9 Commission regulations with respect to the allegations in this matter. Finally, the Office of General
10 Counsel recommends that the Commission approve the attached Factual and Legal Analysis and the
11 appropriate letters, and close the file.

RECOMMENDATIONS

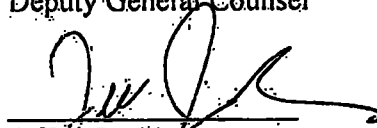
1. Dismiss MUR 6714 with regard to Jill Stein for President and James Moran in his official capacity as treasurer, pursuant to the Commission's prosecutorial discretion;
2. Remind Jill Stein for President and James Moran in his official capacity as treasurer to continuously report the amount and nature of its outstanding debts until those debts are extinguished, pursuant to 52 U.S.C. § 30104(b)(8) (formerly 2 U.S.C. § 434(b)(8)) and 11 C.F.R. §§ 104.3(d), 104.11, including both "estimated debts," *see* 11 C.F.R. § 104.11(b), and "disputed debts," *see* 11 C.F.R. § 116.10(a), and to amend its 2012 disclosure reports as appropriate;
3. Find no reason to believe Ben Manski violated the Act or Commission regulations with respect to the allegations in this matter;
4. Approve the attached Factual and Legal Analysis and the appropriate letters; and
5. Close the file.


General Counsel

1/9/14
Date

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